

TO THE HEADS OF ALL DEPARTMENTS AND AGENCIES:

I have today issued an Executive order entitled "Security Requirements for Government Employment". This order establishes a security program for the executive branch of the Government and revokes Executive Order No. 9835 of March 21, 1947, under which the loyalty program has operated. The order extends the application of the provisions of the security act of August 26, 1950, 64 Stat. 476, to all the departments and agencies of the Federal government to which it has not heretofore been applicable.

With the issuance of this order, I have requested the Civil Service Commission to establish and effectuate a procedure whereby each department and agency of the Government will be furnished competent and disinterested Government employees from outside the department or agency concerned to sit as members of security hearing boards. Such boards, which would be composed of not less than three persons, would, in accordance with the act of August 26, 1950, be established by the head of the department or agency concerned and would act in an advisory capacity in making their findings and recommendations to the head of such department or agency.

I request the head of each department and agency to designate, as requested by the Civil Service Commission, persons possessing the highest degree of integrity, ability, and good judgment to be available for service as members of security hearing boards of other departments and agencies.

I have arranged that the Attorney General supply to the head of each department and agency sample regulations designed to establish minimum standards for the implementation of the security program under this order.

DWIGHT D. EISENHOWER

[SAMPLE SECURITY REGULATIONS]

REGULATIONS RELATING TO THE SECURITY
PROGRAM OF THE

[department or agency]

Pursuant to the authority contained in the act of August 26, 1950, 64
Stat. 476, and [other laws that may be applicable], and Executive
Order No. [of], 1953, I hereby prescribe the following
regulations relating to the security program of the [department or agency]:

Section 1. Definitions

(a) As used herein, the term "national security" relates to the
protection and preservation of the military, economic, and productive strength
of the United States, including the security of the Government in domestic and
foreign affairs, against or from espionage, sabotage, and subversion, and any
and all other illegal acts designed to weaken or destroy the United States.

(b) As used herein, the term "sensitive position" shall mean any po-
sition in the [department or agency] the occupant of which could bring about
because of the nature of the position, a material adverse effect on the
national security. Such positions shall include, but shall not be limited to,
any position the occupant of which (1) may have access to security information
or material classified as "confidential", "secret", or "top secret", or any
other information or material having a direct bearing on the national security,
and (2) may have opportunity to commit acts directly or indirectly adversely
affecting the national security.

Section 2. Policy

It shall be the policy of the [department or agency], based on
the said act of August 26, 1950, and [other acts or applicable law], and the

said Executive Order No. , to employ and to retain in employment only those persons whose employment or retention in employment is found to be clearly consistent with the interests of the national security.

Section 3. Security Standards

(a) No person shall be employed, or retained as an employee, in the [department or agency] unless the employment of such person is clearly consistent with the interests of the national security.

(b) Information regarding an applicant for employment, or an employee, in the [department or agency] which may preclude a finding that his employment or retention in employment is clearly consistent with the interests of the national security shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) An adjudication of insanity, or treatment for serious mental or neurological disorder without satisfactory evidence of cure.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

Section 4. Security Investigations

(a) Security investigations conducted pursuant to these regulations shall be designed to develop information as to whether employment or retention in employment by the [department or agency] of the person being investigated is clearly consistent with the interests of the national security.

(b) Every appointment made within the [department or agency] shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools and colleges attended by the person under investigation: Provided, that to the extent authorized by the Civil Service Commission a less investigation may suffice with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should information develop at any stage of investigation indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation

Attachment to EO 10450(7)

as shall be sufficient to enable the [head of the department or agency] to determine whether retention of such person is clearly consistent with the interests of the national security.

(c) No sensitive position in the [department or agency] shall be filled or occupied by any person with respect to whom a full field investigation has not been conducted: Provided, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of these regulations: And, provided further, that in case of emergency a sensitive position may be filled for a limited period of time by a person with respect to whom a full field pre-appointment investigation has not been completed if the [head of the department or agency] finds that such action is necessary in the national interest. Such finding shall be made a part of the personnel record of the person concerned.

(d) Whenever a security investigation being conducted with respect to an employee of the [department or agency] develops information relating to any of the matters described in subdivisions 2 through 7 of subsection (b) of section 3 of these regulations, or indicates that an employee has been subject to coercion, influence, or pressure to act contrary to the interests of the national security, the matter shall be referred to the Federal Bureau of Investigation for a full field investigation.

(e) Investigation reports received from the Civil Service Commission or the Federal Bureau of Investigation shall be evaluated by the Personnel Security Officer of the [department or agency].

Section 5. Suspension and Termination

(a) The authority conferred by the act of August 26, 1950, 64 Stat. 476, upon the heads of departments and agencies to which such act is applicable to suspend civilian employees, without pay, when deemed necessary in the interests of the national security is hereby delegated with respect to employees of the _____ to the _____
[department or agency] [officer or officers to whom
delegation is desired]

(b) Upon receipt of an investigative report containing derogatory information relating to any of the matters described in subdivisions 2 through 7 of subsection (b) of section 3 of these regulations, the Personnel Security Officer of the _____ shall immediately evaluate
[department or agency]
the report from the standpoint of the security of the _____
[department or agency]
and shall forward the report, together with the evaluation, to the _____
[officer
or officers having authority to suspend]

(c) Upon receipt of the investigative report and the evaluation of the Personnel Security Officer, the _____
[officer having authority to suspend]
shall make an immediate positive determination as to the necessity for suspension of the employee in the interests of the national security. If he deems such suspension necessary, the employee shall be suspended immediately. If he does not deem such suspension necessary, a written determination to that effect shall be made a part of the investigation file of the person concerned.

(d) Factors to be taken into consideration in making the determination required by subsection (c) of this section shall include, but shall not be limited to, (1) the seriousness of the derogatory information developed, (2) the possible access, authorized or unauthorized, of the employee to security information or material, and (3) opportunity, by reason of the nature

of the position, for committing acts adversely affecting the national security. Pending final determination in cases in which ameliorating circumstances are present, the employee may, with the approval of the Personnel Security Officer, be transferred temporarily to a position in which the interests of the national security cannot be adversely affected by the employee.

(e) In case the employee is suspended, the officer concerned shall notify the suspended employee as soon as possible of the reasons for his suspension. Such notice shall be in writing, and shall be as specific and detailed as security considerations, including the need for protection of confidential sources of information, permit.

(f) A suspended employee shall have the right to submit, within 30 days after notification of his suspension, to a designated legal officer statements and affidavits refuting or explaining the stated reasons for suspension. Such statements and affidavits shall be considered by the legal officer for sufficiency, and, after consultation with the Personnel Security Officer, a joint recommendation for the disposition of the case shall be made to the head of the department or agency. If the legal officer and the Personnel Security Officer are in disagreement, individual recommendations shall be made by them.

(g) On the basis of the recommendation or recommendations of the legal officer and the Personnel Security Officer and of his own review of the case, the head of department or agency shall make his determination of the case as follows:

(1) If he finds that reinstatement of the suspended employee in the position from which he has been suspended is clearly consistent

with the interests of the national security, he shall restore the suspended employee to duty in such position, and the employee shall be compensated for the period of suspension.

(2) If he does not find that reinstatement in the position from which he has been suspended will be clearly consistent with the interests of the national security, but that employment of the suspended employee in another position in the department or agency is clearly consistent with the interests of the national security, he may restore the employee to duty in such other position.

(3) If he does not find that reinstatement of the suspended employee to any position in the department or agency is clearly consistent with the interests of the national security, he shall terminate the employment of the suspended employee.

(4) If the employment of the suspended employee is terminated, the employee shall be given a written notice of such termination.

(h) In addition to the protection granted by subsections (e) through (g) of this section to all employees of the department or agency, any employee who is a citizen of the United States and who has a permanent or indefinite appointment and has completed his probationary or trial period shall be entitled to the following:

(1) A written statement of charges shall be furnished the employee within 30 days after his suspension. The statement shall be signed by the officer concerned and shall be as specific and detailed as security considerations, including the need for protection of confidential sources of information, permit, and shall be subject to amendment within 30 days of issuance.

(2) An opportunity shall be afforded the employee to answer, within 30 days after issuance of the statement of charges or within 30 days after the amendment thereof, such charges and submit affidavits. Statements in refutation of the charges and supporting documents shall be forwarded to the Legal officer, who shall consult with the Personnel Security Officer to determine the sufficiency of the answer. The Legal officer and the Personnel Security Officer shall make a joint recommendation to the head of department or agency. If the Legal officer and the Personnel Security Officer are in disagreement, individual recommendations shall be made by them.

(3) The employee shall be given a hearing before a hearing board composed of at least three impartial, disinterested persons, selected in accordance with the procedure set forth in section 8 of these regulations. The hearing shall be conducted in strict accordance with the procedure set forth in section 9 of these regulations. The decision of the hearing board shall be in writing and shall be signed by all members of the board. One copy of the decision shall be sent to the head of department or agency, and one copy shall be sent to the suspended employee.

(4) The entire case shall be reviewed by the head of department or agency before a decision to terminate the employment of a suspended employee is made final. The review shall be based on a study of all the documents in the case, including the record of the hearing before the hearing board.

(5) The employee shall be furnished a written statement of the decision of the head of department or agency.

(i) Copies of all notices of personnel action taken in security cases shall be supplied at once by the Personnel Security Officer to the Civil Service Commission.

Section 6. Readjudication of Certain Cases

The Personnel Security Officer shall review all cases of employees of the [department or agency] with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947. After such further investigation as may be appropriate, such of those cases as have not been adjudicated under a security standard commensurate with that established by Executive Order No. [] of [] 1953, and these regulations shall be readjudicated in accordance with the said act of August 26, 1950, and these regulations.

Section 7. Reemployment of Employees Whose Employment Has Been Terminated

No person whose employment has been terminated by any department or agency other than the [department or agency] under or pursuant to the provisions of the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program, shall be employed in the [department or agency] unless the [head of department or agency] finds that such employment is clearly consistent with the interests of the national security and unless the Civil Service Commission determines that such person is eligible for such employment. The finding of the [head of department or agency] and the determination of the Civil Service Commission shall be made a part of the personnel record of the person concerned.

Section 8. Security Hearing Boards

(a) Security hearing boards of the [department or agency] shall be composed of not less than three civilian officers or employees of the Federal

Government, selected by the head of department or agency from rosters maintained for that purpose by the Civil Service Commission in Washington, D. C. and at regional offices of the Commission.

(b) No officer or employee of the department or agency shall serve as a member of a security hearing board hearing the case of an employee of the department or agency.

(c) No person shall serve as a member of a security hearing board hearing the case of an employee with whom he is acquainted.

(d) The Personnel Security Officer of the department or agency shall nominate number of nominees civilian officers or employees to the security hearing board roster maintained in Washington by the Civil Service Commission. The heads of major units, as desired, outside of Washington shall nominate number of nominees civilian officers or employees to the security hearing board roster maintained at the appropriate regional office of the Civil Service Commission.

(e) Officers and employees nominated to security hearing board rosters maintained by the Civil Service Commission, both in and outside of Washington, D. C., shall be persons of responsibility, unquestioned integrity, and sound judgment. Each such nominee shall have been the subject of a full field investigation, and his nomination shall be determined to be clearly consistent with the interests of the national security.

(f) The Personnel Security Officer or the heads of major units, as desired, in the field shall whenever appropriate, provide stenographic facilities to the security hearing boards of the department or agency when needed to provide an accurate stenographic transcript of the hearing.

(g) The Personnel Security Officer shall be responsible for the preparation of the charges against the employee to be presented to the security hearing board. Whenever possible the /head of department or agency/ shall be represented at the hearing by a person designated by the /legal officer/. Such representative shall not act as prosecutor, but shall aid the board in its determination as to procedure, and shall advise the employee of his rights before the board upon request of the employee.

Section 9. Hearing Procedure

(a) Hearings before security hearing boards shall be conducted in an orderly manner, and in a serious, business-like atmosphere of dignity and decorum, and shall be expedited as much as possible.

(b) Testimony before the hearing boards shall be given under oath or affirmation.

(c) The hearing board shall take whatever action is necessary to insure the employee of a full and fair consideration of his case. The employee shall be informed by the board of his right (1) to participate in the hearings, (2) to be represented by counsel of his choice, (3) to present witnesses and offer other evidence in his own behalf and in refutation of the charges brought against him, and (4) to cross-examine any witness offered in support of the charges.

(d) Hearings shall be opened by the reading of the letter setting forth the charges against the employee, and the statements and affidavits by the employee in answer to such charges.

(e) Both the /department or agency/ and the employee may introduce such evidence as the hearing board may deem proper in the particular case. Rules of evidence shall not be binding on the board, but reasonable restrictions shall

be imposed as to the relevancy, competency, and materiality of matters considered, so that the hearings shall not be unduly prolonged. If the employee is, or may be, handicapped by the nondisclosure to him of confidential information or by lack of opportunity to cross-examine confidential informants, the hearing board shall take that fact into consideration. If a person who has made charges against the employee and who is not a confidential informant is called as a witness but does not appear, his failure to appear shall be considered by the board in evaluating such charges, as well as the fact that there can be no payment for travel of witnesses.

(f) The employee or his counsel shall have the right to control the sequence of witnesses called by him. Reasonable cross-examination of witnesses by the employee or his counsel shall be permitted.

(g) The hearing board shall give due consideration to documentary evidence developed by investigation, including party membership cards, petitions bearing the employee's signature, books, treatises or articles written by the employee, and testimony by the employee before duly constituted authorities. The fact that such evidence has been considered shall be made a part of the transcript of the hearing.

(h) Hearing boards may, in their discretion, invite any person to appear at the hearing and testify. However, a board shall not be bound by the testimony of such witnesses by reason of having called him, and shall have full right to cross-examine him.

(i) Hearing boards shall conduct the hearing proceedings in such manner as to protect from disclosure information affecting the national security or tending to disclose or compromise investigative sources or methods.

(j) Complete verbatim stenographic transcript shall be made of the hearing by qualified reporters, and the transcript shall constitute a permanent part of the record. Upon request, the employee or his counsel shall be furnished, at reasonable cost, a copy of the transcript of the hearing.

(k) The board shall reach its conclusions and base its determination on the transcript of the hearing, together with such confidential information as it may have in its possession. The board, in making its determination, shall take into consideration the inability of the employee to meet charges of which he has not been advised, because of security reasons, specifically or in detail, or to attack the credibility of witnesses who do not appear. The decision of the board shall be in writing, and shall be signed by all members of the board. One copy of the decision of the board, together with the complete record of the case, including investigative reports, shall be sent to the [head of department or agency] and one copy shall be sent to the employee.

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